

APPENDIX A

VIRGINIA NON-RURAL WIRE CENTERS FOR INCLUSION IN VIRGINIA
CELLULAR'S ETC SERVICE AREA

Bell Atlantic (Verizon)	GTE South, Inc. (Verizon)
Staunton (STDRVASD)*	Broadway
Staunton (STTNVAST)	Edom
Staunton (STTNVAVE)	Hinton
Craigsville	Dayton
Lovington (NLFRVANF)	Keezletown
Lovington (LVTNVALN)	Harrisonburg
Lovington (WNTRVAWG)	McGaheysville
Greenwood	Bridgewater
Pine River	Weyerscave
	Grottoes
	Elkton
	Amherst
	Gladstone

* Because the wire center locality names are the same in some instances, the Wire Center Codes are listed in parentheses.

APPENDIX B

**VIRGINIA RURAL TELEPHONE COMPANY STUDY AREAS FOR INCLUSION IN
VIRGINIA CELLULAR'S ETC SERVICE AREA**

New Hope Telephone Company

North River Telephone Company

Highland Telephone Cooperative

APPENDIX C

**VIRGINIA RURAL TELEPHONE COMPANY WIRE CENTERS
FOR INCLUSION IN
VIRGINIA CELLULAR'S ETC SERVICE AREA**

Shenandoah Telephone Company

Bergton

MGW Telephone Company

McDowell

Williamsville

Deerfield

**SEPARATE STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

Re Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia

Competition is for rural as well as urban consumers. In this item, we recognize the unique value that mobile services provide to rural consumers by giving added substance to the public interest standard by which we evaluate wireless eligible telecommunications carriers (ETC). At the same time, we reinforce the requirement that wireless networks be ready, willing and able to serve as carriers of last resort to support our universal service goals.

The areas Virginia Cellular proposes to serve are indeed rural – they are areas where retail rates do not cover the cost of providing service and where high-quality wireless service is intermittent or scarce. This decision remains true to the requirement that ETCs must be prepared to serve all customers upon reasonable request and requires them to offer high-quality telecommunications services at affordable rates throughout the designated service area. In this case, Virginia Cellular has documented its proposed use of federal universal service funding and made important commitments to provide high-quality service throughout its designated service area. To ensure that Virginia Cellular abides by its commitments, moreover, we have imposed reporting requirements and, of course, retain the right to conduct audits and other regulatory oversight activities, if necessary.

Despite the importance of making rural, facilities-based competition a reality, we must ensure that increasing demands on the fund should not be allowed to threaten its viability. Incumbent local exchange carriers, competitive local exchange carriers and wireless carriers should have a competitively neutral opportunity to receive universal service funding. Yet determining an effective, equitable and affordable means of balancing competition and universal service goals is no easy task. The Federal-State Joint Board on Universal Service (Joint Board) is now considering a comprehensive record on these issues and plans to provide a recommended decision to us. I urge them to conclude their inquiry as expeditiously as possible in light of the complexity of the issues involved. Once we receive recommendations from the Joint Board, I hope to move quickly to provide much-needed regulatory certainty in this area and to ensure the support necessary to maintain a sustainable, competitively neutral universal service fund.

**SEPARATE STATEMENT OF
COMMISSIONER KATHLEEN Q. ABERNATHY**

Re Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia

In this Order, the Commission has taken an important (albeit incremental) step toward establishing a more rigorous framework for evaluating ETC applications. When the Commission initially exercised its authority to grant ETC status in areas where state commissions lack jurisdiction, it appeared to regard entry by any new competitor as *per se* consistent with the public interest. While promoting competition is undoubtedly a core goal under the Telecommunications Act of 1996, the use of universal service funding to engender competition where market forces alone cannot support it presents a more complex question. Particularly in rural study areas, where the cost of providing service typically far exceeds retail rates, regulators must carefully consider whether subsidizing the operations of an additional ETC promotes the public interest.

The Joint Board is developing comprehensive recommendations on the ETC designation process and the appropriate scope of support, and this isolated case is not an appropriate proceeding in which to make any fundamental changes. Nevertheless, to qualify for support even under our existing rules, I believe that an ETC must be prepared to serve all customers upon reasonable request, and it must offer high-quality services at affordable rates throughout the designated service area. State commissions exercising their authority under section 214(e)(2), and this Commission acting pursuant to section 214(e)(6), therefore should make certain that an applicant for ETC status is ready, willing, and able to serve as a carrier of last resort and is otherwise prepared to fulfill the goals set forth in section 254 of the Act.

To this end, I am pleased that the Commission has required Virginia Cellular to submit build-out plans to document its proposed use of federal universal service funding for infrastructure investment. I also support the Commission's insistence on appropriate service-quality commitments. Moreover, the Commission is right to consider the increasing demands on the universal service fund: While at one point the cost of granting ETC status to new entrants may have appeared trifling, the dramatic rate of growth in the flow of funds to competitive ETCs compels us to consider the overall impact of new ETC designations on the stability and sustainability of universal service. Finally, I strongly support our efforts to beef up regulatory oversight by imposing reporting requirements on Virginia Cellular and by reserving the right to conduct audits and revoke this ETC designation in the event of a failure to fulfill the requirements of the statute and this Order. All of these requirements are consistent with the statutory framework. The Joint Board may soon recommend that this Commission and state commissions impose additional requirements, and I eagerly await the outcome of that proceeding.

**SEPARATE STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*

Today we grant Virginia Cellular eligible telecommunication carrier (ETC) status in study areas served by rural and non-rural telephone companies. We make some headway in this decision toward articulating a more rigorous template for review of ETC applications. Although I support this grant, I believe that the ETC process needs further improvement. The long-term viability of universal service requires that the Commission get the ETC designation process right. We must give serious consideration to the consequences that flow from using the fund to support multiple competitors in truly rural areas. And when we do fund competition, we need to ensure that we provide the appropriate level of support. For these reasons, I look forward to reviewing the Joint Board's upcoming Recommendation on universal service portability and ETC designation. I am hopeful that this document will lay the foundation for an improved approach that both honors the public interest and reflects the realities of the market.

**SEPARATE STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia

Late last year, I had the opportunity to further outline my thoughts on the Commission's eligible telecommunications carrier (ETC) designation process and the role of the public interest in that process.¹ For the reasons discussed at that time, I am pleased to support this Order responding to the petition of Virginia Cellular, LLC to be designated as an ETC in the Commonwealth of Virginia. I believe this Order establishes a better template for the ETC designation process that is a significant improvement from past Commission decisions and that more fully embraces the statutory public interest mandate. I expect that state commissions also will find the template that we adopt here to be useful in their deliberations of ETC requests.

I am confident that this Order remains true to the Communications Act, which, through Universal Service, requires the Commission to ensure that all Americans, whoever they are or wherever they live, have access to a rapid and efficient communications system at reasonable rates. Congress clearly intended that, when appropriate, competitive carriers should have access to high cost funds on a technologically neutral basis. I believe the Federal-State Joint Board on Universal Service (Joint Board) can play a critical role in determining the parameters of where such competition is appropriate. I am pleased, however, that this Commission has been willing to strengthen the public interest test, pending a Joint Board recommendation. The template established in this Order provides a much more stringent examination of the public interest in making our ETC determination. Among other factors, Virginia Cellular has made significant investment and service quality commitments throughout its proposed service areas. Finally, I believe that our Order conducts a thorough and proper analysis of rural telephone company service areas pursuant to Section 214(e)(5). Indeed, we ultimately decided not to designate Virginia Cellular as an ETC in certain portions of its licensed service area. In other areas, it was determined, based on a detailed review of the affected service areas, that cream skimming or other similar concerns do not arise, and these areas ultimately are proposed for redefinition.

I look forward to working with my colleagues both at the Commission and on the Joint Board to provide further guidance on the ETC designation process and other Universal Service support issues in the upcoming months. As I outlined in the attached remarks, I believe there are many constructive actions we can take to make sure our Universal Service mandate is upheld while still ensuring that the fund does not grow dramatically.

¹ Commissioner Jonathan S. Adelstein, *Accessing the Public Interest: Keeping America Well-Connected*, Address Before the 21st Annual Institute on Telecommunications Policy & Regulation (Dec. 4, 2003) (<http://www.fcc.gov/commissioners/adelstein/speeches2003.html>). A copy of the remarks is incorporated into this statement.

**Remarks of
Jonathan S. Adelstein
Commissioner, Federal Communications Commission**

**“Accessing the Public Interest:
Keeping America Well-Connected”
21st Annual Institute on Telecommunications Policy & Regulation
The International Trade Center - Washington, DC
December 4, 2003
[As prepared for delivery]**

I. Introduction

Thank you Henry for that kind introduction.

There is no greater opportunity for someone who has dedicated his whole life to public service than to serve as an FCC Commissioner. My singular goal is to serve the public interest. But sometimes the hardest part is figuring out what that means. It is especially frustrating in the context of communications policy, because we hear so many conflicting views from parties with big stakes in the outcome.

Winston Churchill once described Russia as “a riddle, wrapped in a mystery, inside of an enigma.” Similar terms are used to describe the public interest standard of the FCC. As an eternal optimist, I still believe the public interest does exist and can be a meaningful standard. It is our job to figure it out, since Congress referred to it over 100 times in the Communications Act. If we are not sure what it means any given case, it is job number one to figure it out.

Looking back over the past year and across the Commission’s broad jurisdiction, I am guided in my public interest determinations by one key principle – that the public interest means securing access to communications for everyone, including those the market may leave behind.

I have tried to address these needs this last year, by protecting people with disabilities, non-English speakers, rural and low-income consumers, and many others. I have looked for opportunities for new entrants and smaller players who are seeking to compete in spectrum-based services and in broadcasting.

Today, I would like to focus on securing access to communications opportunities in three key areas. First, we face an urgent need to establish a new framework to shore up universal service so it can continue to fulfill its function of connecting everyone in this country to the latest telecommunications systems, no matter where they live. Second, we need to expand access to the spectrum so that people can maintain those connections in the increasingly untethered, portable world made possible by advances in wireless technologies. Finally, we need to ensure that communities have access to the broadcast airwaves and local broadcasters remain connected to the communities they serve, even as these broadcasters make the transition to the digital era.

II. Universal Service

Just this week, the Commission held an important forum on a development that could revolutionize not only the telephone system as we know it today, but the entire regulatory structure that has grown around it over the last century: Voice over Internet Protocol, or VoIP. As voice traffic is increasingly conveyed in packets, it becomes difficult to distinguish a voice call from e-mail, photos, or video clips sailing over the Internet.

This is one of the most exciting developments in telephony in decades, and promises a new era of competition, new efficiencies, lower prices, and innovative services. But we have to make sure that all consumers can benefit from the promises that VoIP may hold.

At Monday's forum, we kept coming back to the question of what that means for the future of universal service. The Communications Act requires that, through Universal Service, the Commission ensure that all Americans, whoever they are or wherever they live, have access to a rapid and efficient, communications system at reasonable rates. VoIP presents a long-term challenge to the current structure of the Universal Service program.

Yet, the system is already under increasing pressures as it is financed by interstate revenues – a declining source of funding – while new demands are being placed on it by competitive providers, and by those carriers that are trying to invest in upgrading their networks. This is the imminent crisis we must address now.

One area of concern is the growth of new entrants that are receiving universal service funding. Although the amount of funding these carriers receive is not yet that large, it is growing rapidly. The Act provides that only eligible telecommunications carriers, or ETCs, can receive Universal Service support. State commissions have the primary responsibility for designating ETCs, and can designate additional carriers, known as competitive ETCs or CETCs. In some cases, the FCC evaluates requests for these additional carriers because the states do not have the authority or have chosen not to use it.

This ETC process has raised a lot of questions from those who are concerned that many States and the FCC began using universal service to “create” competition in areas that could barely support just one provider, let alone multiple providers. They question if this is what Congress intended.

Reading the Act, it is safe to assume that Congress did intend that multiple carriers would have access to universal service. Otherwise, it would not have given the authority to designate additional carriers for eligibility. But it is not clear that Congress fully contemplated the impact of this growing competition on the ability of the fund to keep up with demand, and eventually to support advanced services. It may come down to a choice Congress never envisioned between financing competition or financing network development that will give people in Rural America access to advanced services like broadband.

But Congress did give some very clear direction we cannot ignore. The law requires that the designation of an additional ETC in a service area, both rural and non-rural, must be consistent

with the public interest. And it established an even higher level of review for those areas served by rural carriers. In those rural areas, the law requires that the authorizing agency shall find that the designation is in the public interest.

a. ETC Designation Template

That is why I have been working with my colleagues to establish a better template that appropriately embraces this public interest mandate.

Under this approach, competition alone cannot satisfy the public interest analysis. We must weigh other factors in determining whether the benefits exceed the costs. For example, we must increase oversight to ensure that universal service funds are actually being invested in the network for which funding is received. We should weigh the overall impact on the Universal Service Fund. And we should also assess the value of the provider's service offering. We must consider whether the applicant has made a service quality commitment or will provide essential services in its community. This is particularly important, as providers that gain ETC status may some day serve as their customers' only connection, so they must work well.

I will recommend that the Commission use this analysis whenever it reviews an ETC request.

b. The Gregg Benchmark Proposal

In response to these concerns, Joint Board member Billy Jack Gregg has suggested that there are certain areas where financing a competitor is simply not a proper use of universal service funds. He proposed that in areas where the high cost carrier receives more than \$30 per line, we should limit funding to only one ETC. In areas where the funding per line is between \$20-\$30, then we should permit no more than two ETCs. And in areas with less than \$20 per line in funding there would be no limit on the number of ETCs. These benchmarks could be challenged and overridden on a case-by-case basis with specific evidence.

Although this proposal needs further discussion, it has a lot of merit. The High Cost Fund ensures that end users in high cost, mostly rural, areas will have access to quality services at reasonable rates. Universal service funding became necessary in these areas because the costs of service were prohibitively high and without it, many would not have had access to telecommunications service at all. Yet, we now fund more than one carrier in several of these same high cost areas.

Mr. Gregg's proposal may allow us to move back toward the initial concept of the High-Cost Fund. Maybe the public interest is better served by ensuring that we use that fund to build out and advance the network in the highest cost areas rather than funding competitive ventures there.

This proposal would help to limit and better control the growth of the fund.

c. Primary Lines

Some are suggesting that a way to control costs is to fund only the primary lines. I believe that this would deny consumers the full support Congress intended. Universal service is not about one connection per household – it encompasses that concept, but is not limited by it. The Low-Income fund ensures at least one connection per household. But the High-Cost Fund embraces the concept of network development and support so that all Americans have access to comparable services at comparable rates, eventually evolving to advanced services.

Basing support solely on primary lines is likely to reduce network investment. It also will have severe implications for consumers who use second lines for fax machines or dial-up access to the Internet. This could have disastrous results for small businesses that operate in rural areas. Their telecommunications costs could easily become too expensive to continue affording services. This could undercut rural economic development and severely damage the economy in Rural America.

So I will not support restricting funding to primary lines only. There are other, better options for addressing the growth of the fund, such as the steps I already have outlined.

d. Basis of Support

Another way to better control the size of the fund and be true to our Congressional mandate is to make sure to provide the right level of support. Currently, competitive ETCs receive the same per line amount of funding as the incumbent local exchange carrier or ILECs. If the ILEC is rural, then its universal service funding is based on its own costs. That means the funds received by the competitive carriers are based on the rural ILECs' costs, not their own.

A large number of CETCs are wireless carriers. Wireline and wireless carriers provide different types of services and operate under different rules and regulations. Their cost structures are not the same. To allow a wireless CETC to receive the same amount of funding as the wireline carrier, without any reference to their cost structures, is artificial, not to mention clearly inconsistent with Section 254(e).

Section 254(e) requires that all carriers receiving Universal Service funding use that support "only for the provision, maintenance, and upgrading of facilities and services for which that support is intended." I believe the law compels us to change the basis on which we provide support to competitors.

III. Managing Spectrum in the Public Interest

When thinking about the federal role in ensuring access to the latest technologies, the Commission is also charged with managing the nation's spectrum in the public interest. Spectrum is the lifeblood of innovations that provide so many new services that people are demanding.

As some of you may know, I have set out an approach for spectrum policy that I call a "Framework for Innovation." In dealing with the spectrum, I believe the Commission should establish ground rules for issues such as interference and availability. But, to the greatest extent possible, we should let innovation and the marketplace drive the development of spectrum-based services. My goal is to maximize the amount of communications and information that flow over the Nation's airwaves, on earth and through space.

Spectrum is a finite public resource. And in order to improve our country's use of it, we need to improve access to spectrum-based services. We cannot afford to let spectrum lie fallow. It is not a property right, but a contingent right to use a public resource – it should be put to use for the benefit of as many people as possible.

I remain concerned that we need to do more to get spectrum in the hands of people who are ready and willing to use it. That is why I am taking a fresh look at our service and construction rules to ensure that our policies do not undercut the ability of carriers to get access to unused spectrum – whether they are in underserved areas or have developed new technologies. For example, we need to adopt tough but fair construction requirements to ensure that spectrum is truly being put to use. This was the case in our decision earlier this year to shorten the construction period for the MVDDS service from ten years to five.

Improved access to spectrum is also the reason why I pushed for our relatively unique service rules for the 70/80/90 GHz bands, which can provide for fiber-like first and last mile connections. This makes it easier for all licensees to get access to spectrum for Gigabit-speed broadband.

While I continue to support the use of auctions, Section 309(j)(6) of the Act recognizes that the public interest is not always served by adopting a licensing scheme that creates mutual exclusivity. Because of the unique sharing characteristics of the 70/80/90 GHz bands, we had an opportunity here to break that mold, and I am glad we did.

I have repeatedly said the FCC needs to improve access to spectrum by those providers who want to serve rural areas, particularly community-based providers. That is why I pushed for the inclusion of both Economic Areas as well as RSA licenses in our recent Advanced Wireless Services Order. Large license areas can raise auction prices so high that many companies that want to serve smaller areas cannot even afford to make a first bid. I certainly recognize that there is value in offering larger service areas for economies of scale and to facilitate wider area deployments. But the public interest demands that we find a balance in developing a band plan, and I am very pleased we did so in that item.

But I am not sure we are doing enough in this area. We heard last month at our wireless ISP forum that operators across the country need access to more spectrum. More spectrum can drive broadband deployment deeper and farther into rural America. We have to be more creative with a term I will coin "spectrum facilitation." That means stripping away barriers, regulatory or economic, to get spectrum into the hands of operators serving consumers at the most local levels.

For example, I was very pleased to support new guidelines to facilitate a more robust secondary market. We removed significant obstacles and provided a framework for allowing licensees to lease spectrum more easily, while ensuring that the Commission does not lose ultimate control over the spectrum. In doing so, we move closer to achieving our goal of ensuring that all Americans have access to the latest wireless technologies, no matter where they live.

The mobile wireless industry is marked by dynamic competition – due in no small part to the regulatory framework that the Commission initially adopted. In the future, we should continue to apply only those rules that truly benefit the public interest so as to avoid undermining these healthy competitive conditions.

For example, I was very pleased that this summer we took significant steps toward improving access to digital mobile wireless phones by those Americans who use hearing aids. We stepped in where the market did not step up. I can think of no more an appropriate action for a government agency to take.

Similarly, there is no higher priority for us at the Commission than improving E911 service. Every day, we confront issues that can affect millions of dollars; but nothing we do is more important than emergency response services. Unlike a lot of issues that get so much attention, this literally is a matter of life or death.

During the last year, the Commission has really stepped up its work with all stakeholders to accelerate the deployment of wireless E911. Continued success requires the unprecedented cooperation of such a wide range of players – the FCC, wireless carriers, public safety answering points, equipment and technology vendors, local exchange carriers, state commissions, and local governments. We all need to work together to get this done quickly and effectively.

Local number portability, or LNP, is another one of the more difficult issues that we faced over the past several months. It truly seemed that everyone in the telecommunications industry hated some part of it. Yet, LNP is one of those issues where the consumer clearly is the winner.

Clearly, there are a number of lingering concerns with LNP and its implementation. Ultimately, though, I believe both the public interest and the law are on our side. And while the concerns raised by both wireline and wireless carriers are significant, and we need to address them, the benefits to consumers outweigh these concerns.

IV. Media Diversity

As we saw this past year, Americans are very concerned about their media. The airwaves belong to the American people. Nowhere is it more important for us to preserve access to the airwaves as widely as possible. We should encourage a broad range of voices and viewpoints.

In today's radio and television, we are hearing troubling accounts of pay-for-play that is not being fully disclosed to the listening and viewing public. To the extent these allegations are true, this poses a real threat to the public airwaves. Practices like payola may inhibit the local broadcaster from making independent judgments about the needs of listeners in their community.

This can deny local artists and musicians access to their local airwaves. We need to investigate these allegations and make sure our rules address any troubling practices we identify.

It seems that the transition to digital television is finally upon us. As we move into the new era, we should not abandon our public interest model that sustains localism, competition and diversity. Courts have consistently reaffirmed these priorities as central to the health of our democracy.

We should reaffirm the public interest accountability of our broadcast media. Broadcasters enter into a social compact to use the public airwaves. Broadcasters can now magnify their voice digitally from one channel to say five or six. If triopolies are allowed by the courts, digital can expand three channels to up to eighteen. It is time to examine the public interest obligations of broadcasters on those multiple programming streams. Broadcasting is still a public privilege. Broadcasters must serve the public interest and remain accountable to their local communities for all their programming.

The FCC already has undertaken a number of steps to accelerate the digital transition. As we turn to the few remaining pieces, we should establish comprehensive public interest obligations for the digital era. With respect to carriage, broadcasters make the case that multicast carriage will further localism. If so, there should be no reason why they cannot accept a localism requirement on all their digital program streams that gain the privilege of must-carry.

V. Conclusion

As we have seen from the recent media debate, Congress clearly considers the communications industries as far more than makers of widgets. All communications fields involve externalities that are not fully captured in the marketplace. Communications technologies are the way people become informed and participate in society. These technologies bring us up-to-date with our friends and relatives. They educate us with stories, images, and people's creativity. They expand our horizons – from our neighborhoods to our towns and cities, our country, and the world around us. They literally bring the world to our fingertips.

It is the Commission's duty to protect every segment of the public in their access to technologies that convey information necessary to stay well-connected in our society. I look forward to working with all of you, and welcome your ideas on furthering the public interest as we move forward to secure the blessings of modern telecommunications for all of our citizens.

Thank you

**DISSENTING STATEMENT OF
COMMISSIONER KEVIN J. MARTIN**

Re Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia

Today's decision designates Virginia Cellular, LLC (Virginia Cellular) as an eligible telecommunications carrier (ETC) in areas served by five rural telephone companies and two non-rural telephone companies in the State of Virginia. The Commission finds the designation of Virginia Cellular as an ETC to be in the public interest and furthers the goals of universal service by "providing greater mobility" and "a choice" of providers in high-cost and rural areas of Virginia.¹ I object to this Order's finding that the goals of universal service are to "provide greater mobility" and "a choice" of providers in rural areas. Rather, I believe the main goals of the universal service program are to ensure that all consumers—including those in high cost areas have access at affordable rates.

During the past two years, I have continued to express my concerns with the Commission's policy of using universal service support as a means of creating "competition" in high cost areas.² As I have stated previously, I am hesitant to subsidize multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. The Commission's policy may make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in rural areas.

I am troubled by today's decision because the Commission fails to require ETCs to provide the same type and quality of services throughout the same geographic service area as a condition of receiving universal service support. In my view, competitive ETCs seeking universal service support should have the same "carrier of last resort" obligations as incumbent service providers in order to receive universal service support. Adopting the same "carrier of last resort" obligation for all ETCs is fully consistent with the Commission's existing policy of competitive and technological neutrality amongst service providers.

First, today's decision fails to require CETCs to provide equal access. Equal access provides a direct, tangible consumer benefit that allows individuals to decide which long distance plan, if any, is most appropriate for their needs. As I have stated previously, I believe an equal access requirement would allow ETCs to continue to offer bundled local and long distance service packages, while also empowering consumers with the ability to choose the best calling plan for their needs.³

¹ Order at para. 12.

² Separate Statement of Commissioner Kevin J. Martin, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second Report and Order and Further Notice of Proposed Rulemaking*, CC Docket (No. 00-256)(rel. October, 11, 2002).

³ Separate Statement of Commissioner Kevin J. Martin, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, (rel. July 10, 2002), Separate Statement of Commissioner Kevin J. Martin, *Federal-State Joint Board on Universal Service*, FCC 03-170, CC Docket No. 96-45, (rel. July 14, 2003).

Second, the Commission redefines several rural telephone company service areas where Virginia Cellular's proposed service areas do not cover the entire service area of the incumbent rural telephone company. Given the potential for creamskimming, I do not support this redefining of the service areas of incumbent rural telephone companies. The Commission's decision to permit service area redefinition relies solely on an analysis of population densities of the wire centers that Virginia cellular can and cannot serve to determine whether the effects of creamskimming would occur, but fails to justify the decision based upon any cost data to verify whether Virginia Cellular is serving low-cost, high revenue customers in the rural telephone company's area.

Finally, I am concerned that the Commission's decision on Virginia Cellular's application may prejudice the on-going work of the Federal-State Joint Board regarding the framework for high-cost universal service support. Today's decision provides a template for approving the numerous CETC applications currently pending at the Commission, and I believe may push the Joint Board to take more aggressive steps to slow the growth of the universal service fund such as primary line restrictions and caps on the amount of universal service support available for service providers in rural America.